

Application No. 09/848,411  
Attorney Docket No. 29250-000555/US

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### REMARKS

Claims 1-18, 20, 21, 23 and 24 are pending in this application. By this Amendment, claim 22 is canceled without prejudice to or disclaimer of the subject matter contained therein; and claims 1-3, 5, 7-12 and 18 are amended. Reconsideration and allowance of this application are respectfully requested.

### CLARIFICATION AND WITHDRAWAL OF FINALITY

Applicants note that the Office Action Summary (PTO-326) indicated that the February 15, 2006 Office Action ("Action") is a non-final, however, paragraph 10 in the Action indicated that the Action is a 'final'. Applicants also note that the Patent Application Information Retrieval (PAIR) indicated the Action is a non-final. Accordingly, Applicants request a clarification by the Examiner.

Nonetheless, Applicants submit that the February 15, 2006 Action is a non-final. Thus, the response to the current rejections is based on Applicants' assumption that the Action is a non-final. Applicants further submit that an Advisory Action cannot be issued at this time.

### ALLOWABLE SUBJECT MATTER

Applicants appreciate that claims 15-17 are allowed; and claims 4-8, 10, 11 and 20-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims.

Accordingly, Applicants submit that claim 18 has been amended to include allowable subject matter of claim 22. Thus, claim 18, and its dependent claims 20, 21, 23 and 24 are allowable. Applicants further submit that claims 1-3, 9 and 12-14 are also allowable by the foregoing amendments and the following remarks.

**CLAIM REJECTIONS – 35 U.S.C. § 102**

Claims 1-3, 13 and 14 stand rejected under 35 U.S.C. § 102(b) as allegedly being unpatentable over Dapper et al. (hereinafter "Dapper"), U.S. Patent No. 5,809,065. This rejection is respectfully traversed.

Applicants submit that Dapper fails to disclose or suggest a method of estimating a signal-to-interference+noise ratio (SINR), comprising:

generating at least two initial SINR estimates for each of the plurality of signals based on a mean of a plurality of samples and a sample variance estimate of the plurality of samples;

scaling the at least two initial SINR estimates; and

translating the scaled SINR estimates

as recited in claim 1.

Col. 2, lines 56-62, etc. of Dapper discloses:

[b]y definition, this renders the signal power 36. Using the signal power 36 and noise power 30, an estimate of the per channel signal-to-noise ratio 38 can be produced by computing the ratio of the mean squared symbol estimate 36 to the variance of the error sequence 30. For symbol error rates of interest (below 10%), there is little loss in accuracy due to symbol errors.

Applicants submit that Dapper merely discloses an estimate of per channel signal-to-noise ratio 38 (see Fig. 2). In other words, Dapper discloses generating only one estimate 38 received from a signal power 36 and a noise power 30; rather than generating at least two initial SINR estimates for each of the plurality of signals. In fact, Dapper cannot support "two estimates" because Dapper teaches that the estimated signal-to-noise ratio 38 is applied to a threshold detector 40 which is set to operate at the boundary between the region in which the demodulated symbols support acceptable digital audio quality and the region in which the error rate is too large to support acceptable quality (col. 3, lines 1-5) (e.g., the estimate is compared to set threshold, and thus cannot support two estimates). Moreover, Dapper discloses that the detector 40 incorporates hysteresis (col. 3, line 5), which is inefficient in supporting two estimations.

Accordingly, Dapper fails to disclose or suggest "generating at least two initial SINR estimates for each of the plurality of signals based on a mean of a plurality of samples and a sample variance estimate of the plurality of samples", as recited in claim 1.

Further, because Dapper fails to disclose "generating at least two initial SINR estimates", Dapper cannot teach or suggest "scaling the at least two initial SINR estimates", as recited in claim 1.

Because Dapper fails to disclose each and every feature of claim 1, it cannot provide a basis for a rejection under 35 U.S.C. § 102. Withdrawal of the rejection is respectfully requested.

Claims 2, 3, 13 and 14 are allowable by virtue of their dependency on independent claim 1, and for the features recited therein. Withdrawal of the rejection is respectfully requested.

Claim 18 is rejected under 35 U.S.C. § 102(e) as being anticipated by Buehrer et al. (hereinafter "Buehrer"), U.S. Patent No. 6,614,857.

Applicants submit that the rejection to claim 18 has been rendered moot as claim 18 now includes allowable subject matter of canceled claim 22. Withdrawal of the rejection is respectfully requested.

#### **CONCLUSION**

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of each of claims 1-18, 20, 21, 23 and 24 in connection with the present application is earnestly solicited.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants hereby petition for a two (2) month extension of time for filing a reply to the Office Action. The Commissioner is hereby authorized to charge the required \$ 450.00 extension fee to Deposit Account No. 08-0750.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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